

TO: Charles L.A. Terreni
Chief Clerk
Office of the Executive Director
S.C. Public Service Commission
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FROM: NAME: BEATRICE WEAVER
ADDRESS: 1253 HARLLEES BRIDGE ROAD, DILLON S.C. 29536
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EMAIL :

SUBJECT: Progress Energy CASE No. 2004-219-E

DATE: Monday Oct. 22, 2007

No of Pages: 5 inclusive

MESSAGE:

- 1. Attached please find my communication dated Oct. 19, 2007. (pp.4)**
- 2. Please acknowledge your receipt.**

Thank you.

RECEIVED

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**PSC SC
MAIL / DMS**

1253 Harllees Bridge Road
Dillon S.C. 29536
Ph: 843 841 1606
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October 19, 2007

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
S.C. Public Service Commission
P.O. Drawer 11649
Colombia S.C. 29211
Ph: 1803 896 5113; Fx: 1 803 896 5231

Dear Mr. Terreni:

Subject: Processing of Regulatory Issues Pursuant to Administrative Relief and Mitigation

Ref: My Supplemental Memorandum to Request for Information on Change of Providers dated September 27, 2007.

Progress Energy Petition No. 2004-219-E

"Mutual Release" dated Sept.18, 2007 by and between Progress Energy and the Undersigned.

The purpose of this letter is to supplement for the record, previous formal correspondence to your Office for timely "Administrative Relief" and for "mitigation" as required under case law of this State.

For this purpose you are respectfully noticed that on or about September 27, 2007, Mr. Len Anthony filed with your Office a copy of that certain "Mutual Release," the settlement agreement executed on September 18, 2007 by the Petitioner and Respondents in the matter of Progress Energy Carolinas, Inc ("Progress Energy" or "PEC") Petition No. 2004-219-E and Docket No: 2004-CP-17-232 in the Dillon Court of Pleas..

As I have notified your Office previously, unfortunately Progress Energy has not yet complied with the terms and conditions of **paragraphs 1 and 2 or 5** of the Release which called for immediate action by the utility.. On my part, I have complied with each and every condition provided in both paragraphs 1 and 2. Please note that the second settlement installment payment was duly made on October 18, 2007 as required in

Para.1.of the Release. Thus, as of this date, I am in full compliance with PART ONE of the Release as described to your Office in the telefaxed memorandum dated October 15, 2007.

Further, in good faith and for **purposes of administrative relief and mitigation**, I also initiated the Para. 5.process to expedite the change of providers by filing the request for information on the subject with the Commission.

PART TWO of the Release relates to regulatory matters before the Commission. Upon my request, the change of provider provisions in paragraph 5 of the Release was duly placed as Item 9 on the Agenda of your scheduled Meeting on October 17, 2007.

a. When I informed you that I shall be present, you removed Item 9 from the Agenda.

b. **I was not notified of the disposition of the subject postponement.**
Please do so promptly.

Re: Dismissal of My Claims Against PEC.

Because the dismissal of my claims against PEC before the Commission is contingent on the change of providers, which is under the Commission's jurisdiction, clarification is paramount as to the steps you shall take, including the timing.

Effective Date of Dismissal

The dismissal of matters before the Commission pursuant to paragraph 3 of the Release shall be processed when Progress Energy expeditiously complies with all the terms and conditions of the settlement agreement Release pursuant to paragraphs 1, 2 and 5. therein.

Further Observations.

Note that this first part of the Release deals with settlement of a consumer debt before the Dillon Court of Pleas. Therefore, with respect to the case law requirement to "exhaust administrative remedies" and for mitigation purposes, several issues of **policy and procedure** arise for clarification, for the record.

1. **Does the Commission have regulatory authority and jurisdiction to enforce Progress Energy's prompt compliance with the conditions stated in the Release that was formally filed with your Office by Mr. Anthony, as follows:**

- a. **Enforce paragraphs 1 and 2 of the Release to connect electric power to my residence?**
- b. **Enforce compliance with paragraph 5 of said Release to expedite the change of providers?**

2. With respect to paragraphs 3 and 4 of Part Two of the Release relating to regulatory matters before the Commission, the following question arises with relating to “exhausting administrative relief” and mitigation. Please advise if:

- a. **The Commission has regulatory authority and jurisdiction to enforce Progress Energy’s prompt compliance with the conditions stated in para. 3 and 4 of the Release. I believe it does not.**

Thus it is my position that any enforcement which may be necessary of he paragraphs 3 and 4 of the Release would fall within the jurisdiction of the Dillon Court where the lawsuit for an alleged consumer debt collection was processed. My compliance with the requirements of Paragraphs 3 and 4 are thus within my sole privilege and discretion.

Further, it is my position that as a resident and electricity consumer of this State, under the Statutes and Commission Regulations, I actually have a legal right to apply for a change of providers **at any time**, irrespective of any settlement agreement with PEC. In fact as such, I do not need to sign any legal document to any party that impedes that right. The Commission has a legal mandate to process any properly filed application for a change of provider by a S.C. consumer. The change may or may not be granted, but the Commission must duly process the application.

In this case we have a unique feature. Under the terms of paragraph 5 of the Release filed with the Commission, **Progress Energy has already consented to the change of providers, subject only to preservation of certain proprietary rights.** That “loophole” is of concern, which is why I duly filed a request for policy and procedure guidance from the Commission on September 22, 2007..

Consequently, the Commission’s removal of Item 9 from the Agenda for the October 17, 2007 Meeting was inappropriate under the unique circumstances of this case.

No regulatory or legal nexus exists between my request for guidance concerning the Commission's policy and procedures for a changeover, which is unrelated to any "Release" document.

However, I can, if I so wish, make the subject request independently of any pending "release" issue.

The Commission's delay of due process of administrative relief and mitigation with no future date established for processing the request, has been harmful to the undersigned. For medical reasons well known to the Commission, time is of the essence in settling the issues I have placed before the Commission. See the Medical Certificate dated n or about October 12, 2007.

It is my position that the Commission does not have the jurisdiction over a civil agreement in settling a civil lawsuit in a civil court of law on a consumer debt collection action. In this case, the Commission's jurisdiction does not extend to include equitable or tortuous relief. Both the commission and ORS are strictly limited to regulatory issues, i.e., to enforce or not to enforce the electric power supply connection as requested, or to change or not to change providers as requested.


I respectfully request that Item 9 deleted from the October 17, 2007 Meeting Agenda, be placed back on the Agenda for the Commission's expeditious processing.

Your prompt response to the above requests is urgently requested.

Time is of the essence.

Thank you.

Yours sincerely,


B. E. Weaver
Respondent Pro Se

Encl: Copy of letter to Marlboro Electric Cooperative dated Oct. 18, 2007
Copy of letter to Progress Consumer Affairs Office dated Oct. 19, 2007

Cc: Mr. Gary Weaver
Respondent Pro Se

Via U. S. Postal Certificate of Mailing and Telefax